

AMENDED IN SENATE APRIL 5, 2010

SENATE BILL

No. 1438

Introduced by Senator DeSaulnier

February 19, 2010

An act to ~~amend Section 53 of the Labor~~ *add Section 1326.5 to the Unemployment Insurance Code, relating to employment unemployment insurance.*

LEGISLATIVE COUNSEL'S DIGEST

SB 1438, as amended, DeSaulnier. ~~Employment—Unemployment insurance.~~

Existing law authorizes the Director of the Employment Development Department to adopt regulations for the administration of unemployment insurance benefit claims.

Existing law requires an administrative agency to meet procedural requirements, as specified, before an agency adopts, amends, or repeals an administrative regulation.

This bill would authorize the Employment Development Department to temporarily suspend unemployment insurance regulations that slow the disbursement of unemployment insurance benefits. This bill would also require the department and the Bureau of State Audits to publish a study of unemployment insurance regulations that includes a list of regulations to be suspended and to present the findings of the study and the list of regulations to the relevant legislative committees. This bill would also authorize the Legislature to extend, by statute, the suspension of any or all of the suspended regulations.

~~Existing law defines the phrase “head of the department” to refer to the Director of Industrial Relations in specified circumstances.~~

~~This bill would make nonsubstantive changes to that provision.~~

Vote: majority. Appropriation: no. Fiscal committee: ~~no~~-yes.
State-mandated local program: no.

The people of the State of California do enact as follows:

1 *SECTION 1. The Legislature hereby finds and declares:*

2 *(a) California is facing an immediate, persistent, and significant*
3 *unemployment crisis throughout the state.*

4 *(b) The dramatic increase in unemployment has placed*
5 *significant and unprecedented strains on the Unemployment*
6 *Insurance branch of the Employment Development Department,*
7 *leading to delays in serving unemployed workers and the delivery*
8 *of unemployment insurance benefits.*

9 *(c) The crisis of chronic unemployment and service challenges*
10 *facing the Employment Development Department constitute an*
11 *emergency requiring immediate action. This emergency requires*
12 *granting the Employment Development Department the authority*
13 *to temporarily suspend regulations that would result in improved*
14 *services and benefit delivery for California's unemployed*
15 *workforce.*

16 *SEC. 2. Section 1326.5 is added to the Unemployment*
17 *Insurance Code, to read:*

18 1326.5. (a) (1) *Within 45 days after the enactment of this*
19 *section, the Employment Development Department and the Bureau*
20 *of State Audits shall publish a study of unemployment insurance*
21 *regulations, that shall include a list of unemployment insurance*
22 *regulations to be suspended to increase the rate of delivery of*
23 *unemployment insurance benefits. The department shall not include*
24 *in the list of regulations to be suspended, an unemployment*
25 *insurance regulation if the suspension of the regulation would*
26 *lead to an immediate and foreseeable increase in criminal*
27 *unemployment insurance fraud.*

28 (2) *Notwithstanding Article 5 (commencing with Section 11346)*
29 *and Article 6 (commencing with Section 11349) of Chapter 3.5 of*
30 *Part 1 of Division 3 of Title 2 of the Government Code, upon*
31 *publication of the study, the department shall suspend the*
32 *unemployment insurance regulations listed in the study pursuant*
33 *to this section for 30 days.*

34 (b) (1) *Within 14 days of the publication of the study, the*
35 *Employment Development Department and the Bureau of State*

Audits shall present the following to the relevant legislative committees:

(A) The findings of the study.

(B) A complete list of the unemployment insurance regulations suspended pursuant to this section, and the basis for the suspension of each suspended regulation.

(2) The presentation of the study pursuant to paragraph (1) shall be submitted in compliance with Section 9795 of the Government Code.

(c) (1) After the presentation of the Employment Development Department and the Bureau of State Audits, the Legislature, by statute, may require that any or all of the unemployment regulation suspensions continue for an additional 335 days.

(2) On an annual basis, the Legislature may, by statute, further extend the suspension of any or all unemployment insurance regulations suspended pursuant to this section for 365 days.

(d) This section shall remain in effect until January 1, 2015, or the date that the Director of the Employment Development Department determines that the average seasonally adjusted state unemployment rate reaches 9 percent or less for four consecutive quarters, whichever occurs first. If the director makes the determination contained in this subdivision, the director shall transmit that determination to the Director of the Office of Administrative Law, the Secretary of State, the Secretary of the Senate, and the Chief Clerk of the Assembly.

~~SECTION 1. Section 53 of the Labor Code is amended to read:~~

~~53. Whenever in Section 1001 or in Part 1 (commencing with Section 11000) of Division 3 of Title 2 of the Government Code "head of the department" or similar designation occurs, the phrase shall mean, for the purposes of this code, the director, except that in respect to matters which by the express provisions of this code are committed to or retained under the jurisdiction of the Division of Workers' Compensation, the State Compensation Insurance Fund, the Occupational Safety and Health Standards Board, the Occupational Safety and Health Appeals Board, or the Industrial Welfare Commission the designation shall mean the Division of Workers' Compensation, the Administrative Director of the Division of Workers' Compensation, the Workers' Compensation Appeals Board, the State Compensation Insurance Fund, the Occupational Safety and Health Standards Board, the Occupational~~

- 1 ~~Safety and Health Appeals Board, or the Industrial Welfare~~
- 2 ~~Commission, as the case may be.~~

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